K Komputrol

SOFTWARE LICENSE AGREEMENT

Agreement made as of **March 21**, **2006,** between Komputrol, a division of A.E. Boyce & Co., Inc., an Indiana corporation, with its principal place of business at 109 West Jackson Street, Cicero, IN 46034-0500 ("Licensor"), and **White County, Indiana, by its County Commissioners**, with its principal place of business at **110 North Main Street, Monticello, IN 47960** ("Licensee"). Licensor and Licensee agree that the terms and conditions of this License Agreement cover licenses to software programs to be provided by Licensor to Licensee.

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1.   DEFINITIONS

Performance

    1.1   Licensed Programs. Licensed Programs means: (i) all of the computer program(s) specified on Schedule 1 to this Agreement, consisting of a series of instructions or statements in machine-readable object code form; (ii) any revisions or updates provided by Licensor to the Licensee, pursuant to the terms of this Agreement; and (iii) the Program

Information

Documentation as defined herein. The collective group of Licensed Programs is sometimes referred to herein as the "Systems."

    1.2   Documentation. Program Documentation means the user manuals,

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handbooks and other written materials relating to the Licensed Programs provided by Licensor to the Licensee pursuant to the terms of this Agreement.

2.   PERMITTED USES

for

    2.1   License Grant: Enterprise. Subject to the terms and conditions set forth in this Agreement, Licensor grants to the Licensee a non-transferable, non-exclusive license to use the Licensed Software for any of the business activities of the Licensee in the United

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States, or any other territory that the parties may from time to time designate in writing.

3.   USE RESTRICTIONS

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    3.1   Copies. Except as otherwise provided herein, Licensee shall not, without prior written consent of Licensor copy in whole or in part the Licensed Programs, provided by Licensor under this Agreement. Licensee is authorized to make one backup copy of the Licensed Programs. All approved copies shall be made in machine readable form, used exclusively for Licensee's internal use, and stored at Licensee's place of business. Licensee shall have the unrestricted right to reproduce the documentation supplied as part of the systems for Licensee's exclusive use.

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3.2   Ownership of Copies. The original, and any copies of the Licensed Programs, in whole or in part, which are made by Licensor or the Licensee or otherwise shall at all times be the sole and exclusive property of Licensor. Each copy shall so state in the following language:

> This copy of **See Schedule 1** (insert name of program or manual listed on Schedule1) is the property of A.E. Boyce Co., Inc., doing business as Komputrol, protected under the copyright, trade secret and confidentiality laws of the United States.

At Licensee's request, Licensor will provide a label to be attached to the copy setting for the foregoing statement. The provisions of this clause shall apply to all Licensed Software, including but without limitation, programs, manuals, instructional materials and all other documentation provided by Licensee.

3.3   Inspection. In order to assist Licensor in the protection of its proprietary rights with respect to the Licensed Programs, Licensor shall have the right to inspect during regular business hours the facility at which the Licensed Program is used and the facility at which the Licensed Programs are stored. Licensee shall provide Licensor with access to the Licensed Programs, including any copies thereof.

3.4   No Reverse Engineering. Licensee shall not have the right under this Agreement: (i) to reverse engineer, decompile, disassemble, re-engineer or otherwise create or attempt to create or permit, allow, or assist others to create the source code of the Licensed Programs, or their structural framework; or (ii) to use the Licensed Programs in whole or in part for any purpose except as expressly provided under this Agreement.

3.5   Third Parties. In addition to the confidentiality provisions contained herein, the Licensee shall not cause or permit the display, loan, publication, transfer of possession (whether by sale, exchange, gift, operation of law or otherwise), sublicensing or other dissemination of the Licensed Programs or Program Documentation, in whole or in part, to any third party without the prior written consent of Licensor.

3.6   Modifications of Licensed Programs. The Licensee shall not modify, enhance or otherwise change the Licensed Programs without the prior written consent of Licensor. The Licensee agrees that a modification or enhancement to the Licensed Program(s) developed by the Licensee with or without advice or support by Licensor or Licensor for the Licensee, whether or not reimbursed by the Licensee and whether or not developed in conjunction with the Licensee's employees, agents, or contractors shall be the exclusive property of Licensor. The Licensee further agrees that modified or enhanced versions of the Licensed Program(s) do not constitute a program different from the Licensed Program(s), and as such, fall under the other terms and conditions of this Agreement.

3.7   No Assignment. Licensee's rights under this Agreement to the Licensed Program shall not be assigned or licensed by Licensee without the prior written approval of Licensor.

4.   PROPRIETARY RIGHTS

Licensee acknowledges that the Systems have been purchased or otherwise developed by Licensor at great expense and contain formulas and calculations proprietary to and trade secrets of Licensor. Licensee will do nothing to jeopardize the proprietary and confidential nature of the material. Licensee agrees to reveal such information only to employees of Licensee as are required to have knowledge of or access to such material in relation to their work. Licensee agrees not to disclose or divulge any information about the Systems, or the Systems themselves, to any third party. Licensee specifically agrees not to allow any other computer software vendor to access or copy the data files or documents of the Systems for any purpose. Licensee shall take all measures necessary to protect the proprietary rights of Licensor as set forth herein. Licensee agrees that a violation of this paragraph may result in imminent, irreparable injury beyond that compensable by monetary payments, and Licensee herewith consents to the issuance of a temporary restraining order or such other injunctive relief as Licensor may elect to obtain.

5.   PAYMENT

5.1   License Fee and Other Charges. In consideration of the license to the Licensed Programs granted to Licensee pursuant to this Agreement, the Licensee shall pay to Licensor the license fee set forth on Schedule 1 to this Agreement, in the manner provided on such Schedule.

5.2   Taxes. All amounts payable pursuant to this Agreement are exclusive of all federal, state, local, municipal or other excise, sales, use, property or similar taxes and fees (but not any income tax or any tax on or measured by income), now in force or enacted in the future, and all such taxes and fees shall be paid by the Licensee. The Licensee shall obtain and provide to Licensor any certificate of exemption or similar document required to exempt any transaction under this Agreement from sales tax, use tax or other tax liability.

6.   TERM

6.1   The License granted under this Agreement to the Licensed Programs shall be in effect from the date of this Agreement and shall remain in effect for a term of one (1) year. This Agreement shall automatically be extended for successive one (1)-year periods unless Licensee gives written notice of termination (or "cancellation") to Licensor no less than thirty (30) days prior to the expiration of the current term provided in this Agreement or if Licensee terminates the Annual Maintenance Agreement for any Licensed Program. All terms and conditions of this Agreement shall apply during the renewal term, and other than the ongoing Maintenance Fees charged pursuant to the Annual Maintenance Agreement, there shall be no additional license fee charged for the renewal. Upon termination for any reason, Licensee shall return to Licensor the Licensed Program(s), any copies, and all materials received from Licensor relating to the Licensed Program(s).

6.2   Delivery; Installation and Specifications. Licensor will deliver the Licensed Programs with Program Documentation and install the Licensed Programs in accordance with Schedule 6.2 attached hereto. Licensee shall provide operating systems and hardware which meets the minimum specifications as set forth on Schedule 6.2 attached hereto, and Licensor represents that Licensee's operating systems meet such requirements.

7.   SERVICES

7.1   Maintenance and Incorporation of Terms of Software Maintenance Agreement. Concurrent with the execution of this Agreement, Licensor and Licensee shall enter into Licensor's standard form of Annual Maintenance Agreement for Komputrol Software Systems (Software Maintenance Agreement). All revisions, updates, maintenance and support of the Licensed Programs shall be provided to the Licensee only pursuant to the terms of the Software Maintenance Agreement. In no event shall Licensor be under any obligation to revise or update the Licensed Program(s) or to maintain or support them in the event of a termination of the software maintenance agreement. Termination of the Software Maintenance Agreement under any circumstances shall cause the Licensee to be considered a user not in good standing and Licensee waives the ten (10)-day notice and time to cure allowed under Paragraph 12 before Licensor may terminate this Agreement. The provisions of the Software Maintenance Agreement are incorporated into this Agreement.

8.   OWNERSHIP

8.1   Licensed Programs. Subject to the rights granted to the Licensee pursuant to this Agreement, all right, title and interest in and to the Licensed Program(s), including, without limitation, the source code, and all related materials are and shall at all times remain the sole and exclusive property of Licensor. Licensor may use, sell, assign, transfer and license copies of and rights relating to the Licensed Program(s) to third parties free from any claim of the Licensee. If Licensor ceases doing business and it has not sold its assets to a third party purchaser who will continue to support the Licensed Programs, then Licensor will offer to sell to Licensee a nonexclusive ownership in the source code. Licensee would have the right to use the source code solely for its internal uses, and under no circumstances may the Licensor make the source code available to any other party.

9.   WARRANTIES

9.1   Right to Grant License. Licensor hereby represents and warrants that it has the right to grant a license to the Licensed Programs to Licensee.

10.   DISCLAIMER OF IMPLIED WARRANTIES

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE CONCERNING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

11. LIMITATION OF DAMAGES

11.1   Direct Damages. Licensee's sole remedy for damages for any cause of action whatsoever, including liability for any claim of infringement of proprietary rights, shall be the return of the license fee paid by Licensee for the Licensed Software, but only during the first annual term of the Agreement, less a prorated amount for the period of time during the first annual term that the Licensee had possession of the systems and less the costs of any enhancements, custom programming, and development costs attributable to the products and services provided to Licensee by Licensor.

11.2   Consequential Damages.

IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHER TORT DAMAGES UNDER ANY CIRCUMSTANCES WHATSOEVER.

12. DEFAULT

Either party may terminate this Agreement if the other party defaults in the performance of any of its obligations hereunder or under a Software Maintenance Agreement for Licensed Programs, effective after written notification of default and failure to cure the default after ten (10) days.

12.1.   Default Defined. Default shall be defined as either (a) breach of any material term or condition of this Agreement by either party, and it is specifically agreed that a breach of any of the payment obligations placed upon Licensee above shall be considered a breach by Licensee of a material term or condition; (b) the termination of the Annual Maintenance Agreement entered into between the parties, (c) Licensee being declared a user not in good standing by Licensor. Licensor shall have the sole right to declare Licensee a user not in good standing for just cause, which shall include but not be limited to the following: abuse or misuse of the Systems, related materials, support services or Licensor staff; failure to obtain appropriate training for Licensee staff; ceasing to use the Systems on a regular basis for their intended purposes or replacing the Systems with those of another computer software vendor, or (d) if proceedings in bankruptcy are commenced against either of the parties, or either is adjudicated a bankrupt, or a receiver of either is appointed and qualifies.

12.2.   Notice of Default. In the event of a default by either party, including that Licensor elects to declare Licensee a user not in good standing, then the party declaring the default shall give the other written notice of such declaration. The party receiving a declaration of default shall then have ten (10) days after receipt of such notice to cure the declared default. Failure to cure a default within the ten (10) day time limit shall give the party not in default the sole right and power to terminate this Agreement.

12.3   Consequences of Failure to Cure Default. In the event that Licensee does not cure a default within the ten (10) day time period and Licensor elects to terminate the Agreement, then Licensee shall immediately return the Licensed Program(s), any copies, and all related materials to

Licensor at Licensee's cost. It is agreed that any payments made to Licensor prior to termination shall be retained as liquidated damages. Licensee shall also be subject to any legal or equitable remedies available to Licensor for breach of this Agreement and default hereunder. Licensee's sole remedy against Licensor for breach hereof or default hereunder shall be the return of the license fee, but only during the first annual term of this Agreement, less a pro rated amount for the period of time during the first annual term that the Licensee had possession of the Systems and less the costs of any enhancements, custom programming and development costs attributable to the products and services provided to Licensee by Licensor.

Because unauthorized use or transfer of the Licensed Programs may substantially diminish the value of such materials and irrevocably harm Licensor, if the Licensee breaches the provisions of paragraphs Three and Four of this Agreement Licensor shall be entitled to equitable relief, including, but not limited to, injunctive relief, in addition to other remedies afforded by the law, to prevent a breach of paragraphs Three and Four of this Agreement.

13.   GENERAL PROVISIONS

13.1   Governing Law. This Agreement is governed and shall be construed in accordance with the laws of the State of Indiana, and any action arising out of or in any way connected with this Agreement shall be brought only in the appropriate federal or state court in the State of Indiana.

13.2   Captions. Captions contained in this Agreement are for reference purposes only and are not part of the Agreement.

13.3   Non-Waiver. Licensor's failure to assert its legal rights under this Agreement or to object to actions of Licensee shall not be construed as a waiver of the terms and conditions of this Agreement.

13.4   Severability. In the event that a court of competent jurisdiction should declare any provisions, terms or conditions herein to be void, unenforceable or illegal, then such portions of the Agreement shall be deemed as severed and the remainder hereof shall be binding on the parties as written.

13.5   Entire Agreement. All prior proposals, understandings, and other agreements, whether oral or written, between the parties that relate to this subject matter are hereby superseded and merged into this Agreement and the Annual Maintenance Agreement being entered into by the parties contemporaneously herewith. This Agreement may not be modified or altered except in writing by an instrument duly executed by authorized officers of both parties.

13.6   Attorneys' Fees. If any action is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney fees.

IN WITNESS WHEREOF, the Licensor and Licensee have caused this Agreement to be executed as an instrument under seal as of the day first above written by their officers thereunto duly authorized.

White County, Indiana   **A.E. Boyce Co., Inc.**

By: White County Commissioners

_____   By:_____
                                                              Michael B. Galliher, President
_____

_____

Date:_____   **Date:** ___March 21, 2006_____

SCHEDULE 1

APPLICATION SOFTWARE SYSTEMS	LICENSE DATE	LICENSE FEE

County Comprehensive Financial Accounting Software, including:
    Budgetary Accounting System
    Payroll Processing System
    Fixed Asset Inventory System
    Treasurer's System
	03/21/06	$ 29,000.00

TOTAL LICENSE FEE		$ 29,000.00

NOTE: The above Application Software Systems includes __48__ hours* on-site training.

*Minimum of four and maximum of six hours on-site training for any training day. Any hours past the maximum of six shall result in the hours and travel time being subtracted from the amount of training hours included with the software.

SCHEDULE 6.2

INSTALLATION AND SPECIFICATIONS

Installation: The Licensed Programs will be installed at mutually agreed upon dates and times in August 2006.

Installation Fee: $1,000

Specifications for Hardware and Software:

KWS SYSTEM REQUIREMENTS

The <u>minimum</u> system requirements for a Komputrol server are:

Server & Network Components:
- Operating System: Windows 2000 or Windows NT
- Intel Pentium III 550MHz or faster
- 256MB RAM
- 3- 9.1GB Hard Drives, RAID 5 Configuration
- Network Interface Card
- Internal Tape Backup Device and Backup Software
- Certified Category 5 Network

The <u>minimum</u> system requirements for a Komputrol workstation are:

Machine:
- Operating System: Windows 9x, Windows 2000, Windows NT, Windows XP
- Intel Pentium processor 300MHz or faster
- 64MB RAM
- 2GB Hard Drive
- Internal 250MB Zip Drive

***All system printers <u>must</u> be setup as network printers

Laser Printers:
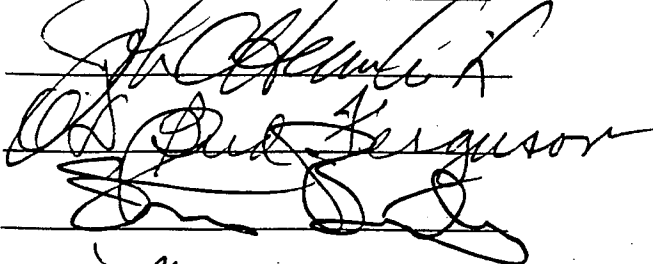- Hewlett Packard 4100N or 8150N

Dot-matrix Printers
- Wide carriage 132 print characters per line
- Required for multi-part of continuous feed forms
- CPI from 10 to 17
- Epson DFX 5000, Epson DFX 8500, or Lexmark 4227

IN WITNESS WHEREOF, the Licensor and Licensee have caused this Agreement to be executed as an instrument under seal as of the day first above written by their officers thereunto duly authorized.

White County, Indiana

By: White County Commissioners

Date: May 1, 2006

A.E. Boyce Co., Inc.

By: _____

Michael B. Galliher, President

Date: March 21, 2006